

Remarks

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The non-final Office Action dated October 15, 2003, indicated that claims 2-23 are allowed and claim 1 is rejected under 35 U.S.C. § 102(e) over *Nikawa* (U.S. Pat. No. 6,160,407).

Applicant appreciates the allowance of claims 2-23.

Applicant respectfully traverses the Section 102(e) rejection of claim 1 because the Office Action presents: no new grounds of rejection, and a word-for-word duplication of the pre-appeal rationale for the rejection. The MPEP requires that when prosecution is reopened after an appeal brief is filed, new grounds of rejection must be presented. *See* MPEP § 1208.02.

The Office Action's citations to col. 4, lines 57-67 and col. 5, lines 30-46 of the '407 reference add nothing new. Technically speaking, these citations directly overlap with the previously relied-upon teachings of the '407 reference. The column 4 citation is directed to the third aspect of the '407 reference and discusses a subset of the fifth aspect of the '407 invention. The fifth aspect, as discussed in the column 5 citation, is broader than and therefore directly overlaps with the relied-upon teachings of the first aspect. Therefore, both citations are cumulative to the first aspect which has been relied upon in connection with the rejection of the pre-appeal final Office Action. Moreover, this duplicated rationale (including citations to these various "aspects" of the '407 reference) fail to provide any additional correspondence to the previously appealed issues and limitations, *e.g.*, "using a state-changing operation of the suspect circuitry to cause a failure due to the suspect circuitry." For example, column 4, lines 20-30, describing a first aspect of the '407 reference has been shown to fail to correspond to such claim limitations, and the Office Action does not include any further explanation for the rejection. Applicant submits that the instant Office Action fails to present any new grounds for rejecting claim 1 and, therefore, fails to comply with MPEP § 1208.02. Accordingly, Applicant requests that the rejection be withdrawn.

Further, as discussed previously in connection with the Appeal Brief dated July 17, 2003, the Office Action fails to present complete correspondence between each of the limitations of claim 1 and the '407 reference. As explained in the Appeal Brief, an erroneous interpretation of the '407 reference appears to have been maintained. Applicant's invention includes limitations directed to identifying the specific circuit paths that electrically change in response to heat and detecting that a particular circuit portion therein is resistive -- using a state-changing operation of a suspect circuit to cause its failure. The '407 reference does not teach these limitations and it does not use a state-changing operation of a suspect circuit to cause its failure. Moreover, the Office Action does not appear even to allege a "state-changing" operation, and the cite to column 4, lines 20-30 makes no reference whatsoever to a "state-changing" operation of the device under evaluation in the '407 reference.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

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Dated: January 8, 2004

By: 

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Further, as discussed previously in connection with the Appeal Brief dated July 17, 2003, the Office Action fails to present complete correspondence between each of the limitations of claim 1 and the '407 reference. As explained in the Appeal Brief, an erroneous interpretation of the '407 reference appears to have been maintained. Applicant's invention includes limitations directed to identifying the specific circuit paths that electrically change in response to heat and detecting that a particular circuit portion therein is resistive -- using a state-changing operation of a suspect circuit to cause its failure. The '407 reference does not teach these limitations and it does not use a state-changing operation of a suspect circuit to cause its failure. Moreover, the Office Action does not appear even to allege a "state-changing" operation, and the cite to column 4, lines 20-30 makes no reference whatsoever to a "state-changing" operation of the device under evaluation in the '407 reference.

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